

DOCKET FILE COPY ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

Application by SBC Communications, Inc.,)
Southwestern Bell Telephone Company,)
and Southwestern Bell Communications)
Services, Inc., d/b/a Southwestern Bell Long)
Distance for Provision of In-Region InterLATA)
Services in Oklahoma)

CC Docket No. 97-121

COMMENTS OF THE OKLAHOMA CORPORATION COMMISSION
ON THE APPLICATION OF SBC COMMUNICATIONS INC.,
SOUTHWESTERN BELL TELEPHONE COMPANY AND
SOUTHWESTERN BELL LONG DISTANCE FOR PROVISION OF
IN-REGION INTERLATA SERVICES IN OKLAHOMA

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CORPORATION COMMISSION OF OKLAHOMA



CODY L. GRAVES
CHAIRMAN

Jim Thorpe Building
P.O. Box 52000-2000
Oklahoma City, Oklahoma 73152-2000
405-521-2267

April 30, 1997

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Office of the Secretary
Federal Communications Commission
Washington, D.C. 20553

Re: FCC 97-121

To Whom it may Concern:

Pursuant to the FCC procedures for Bell operating company applications under Section 271 of the Telecommunications Act, please find enclosed comments of the Oklahoma Corporation Commission in support of Southwestern Bell Telephone's application to provide in-region interLATA services in Oklahoma. Also enclosed is a record of the proceedings held at the Oklahoma Corporation Commission in developing this position.

Sincerely,

A handwritten signature in black ink, appearing to read "Cody L. Graves", is written over the typed name.

Cody L. Graves
Chairman

CLG:bc

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Pursuant to Section 271(d)(2)(B) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("Act"), the Oklahoma Corporation Commission ("OCC") submits these comments to the Federal Communications Commission ("FCC") for its consideration with respect to the Applicants' request for in-region interLATA authority. The comments provided below are based on actions taken by the OCC, actions taken by competitive local exchange companies ("CLECs"), filings at the OCC and the OCC's specific investigation into whether Southwestern Bell Telephone Company ("SWBT") has met the requirements of Section 271(c) of the Act.

In summary, it is the opinion of a majority of the OCC that SWBT should be allowed to proceed with its pending application before the FCC and that the Applicants should be allowed to provide in-region interLATA services in Oklahoma. Commissioner Cody L. Graves has submitted comments which are attached hereto as Appendix "A". Commissioner Bob Anthony, has submitted a dissenting opinion which is attached hereto as Appendix "B".

Further, it is the opinion of the OCC that the Applicants' entry into the in-region interLATA long distance market is in the public interest for Oklahomans. Citizens of our state will not only benefit from the standpoint of the increased competition in the interLATA long distance that Southwestern Bell's entry will bring, but will also benefit from the standpoint of expediting local exchange competition from providers whose current business plans may favor larger markets than Oklahoma. The OCC believes the Applicants' filing and entry into in-region interLATA long distance will encourage CLECs to adjust their business plans and begin offering local exchange service in Oklahoma sooner than if Applicants' are delayed entry in to the in-region interLATA market.

Procedural History

On February 6, 1997, in response to suggestions from the Department of Justice, the National Association of Regulatory Utility Commissioners ("NARUC") and the FCC, the Director of the OCC's Public Utility Division filed an application asking the OCC to begin the process of formally gathering information for the OCC to considered with respect to its consultation role under Section 271(d)(2)(B) of the Act. A copy of the application is attached as Appendix "C." The application was intended to allow interested parties the opportunity to submit information to the OCC. AT&T Communications of the Southwest, Inc. ("AT&T"), MCI Telecommunications Corporation and its affiliated companies (collectively referred to as "MCI"), Sprint Communications Company L.P. ("Sprint"), Cox Communications Company ("Cox") and Brooks Fiber Communications of Tulsa, Inc. and Brooks Fiber Communications of Oklahoma, Inc. (collectively referred to as "Brooks"), SWBT and the Office of the State Attorney General ("AG") each filed motions to intervene which were approved by the OCC. Following a hearing

on February 18, 1997, a procedural schedule was established by Administrative Law Judge, Robert Goldfield ("ALJ") and was later approved by the OCC. On April 15, 1997, the record was opened by the ALJ and, in accordance with the provisions of the procedural schedule, prefiled written testimony and written comments were received into the record. A copy of the transcript of this hearing is attached as Appendix "D" On April 20, 1997, the ALJ issued his report and recommendation to the OCC, a copy of which is attached hereto as Appendix "E." The ALJ found that SWBT had not satisfied the requirements of Section 271(c) of the Act. SWBT appealed the ALJ's report, which was heard by the OCC *en banc* on April 23 and 25, 1997. A copy of the transcripts of these hearings is attached as Appendix "F." The OCC thereafter adopted in part and rejected in part the ALJ's recommendations. A copy of the OCC's Order is attached hereto as Appendix "G."

Findings of the OCC

The comments of the OCC are based on the OCC's good faith efforts to interpret the Act. Under Section 271(d)(2)(B), the FCC is required to seek the OCC's view as to whether SWBT is in compliance with Section 271(c) of the Act. Section 271(c) requires a determination as to whether there is a facilities-based competitor providing service to business and residential customers predominantly or exclusively over its own facilities (so-called "Track A"), and, if not, whether SWBT has an approved statement of generally available terms and conditions (so-called "Track B") and, in either event, whether SWBT is providing or generally offering each of the fourteen items listed on the competitive checklist. Although the OCC is not specifically required to provide comments on whether the Applicants' entry into the in-region interLATA long distance market in Oklahoma will serve the public interest, the OCC believes it would and

provides comments on this issue below.

The OCC determined that its investigation is more in the nature of a Notice of Inquiry and that its report to the FCC need not be based on strict rules of evidence. Therefore, the OCC has considered and relied on not only the testimony and/or written comments received in the cause, but also, as noted above, the actions taken by the OCC and the CLECs and other dockets related to competition and interconnection that are pending or have been completed at the OCC.

SWBT meets the "Track A" requirements of Section 271(c)(1)(A)

The first issue the OCC comments on is the issue of whether SWBT may proceed under Track A or Track B in its request for interLATA relief. Because, as discussed below, the Commission has determined that the Applicants can pursue interLATA relief under Track A, it is not necessary to address whether Track B is available to them.

Currently in Oklahoma, Brooks and Cox, two predominantly facilities-based competitors, have made requests for interconnection with SWBT. Both companies have advised the OCC of their intention of providing service to both business and residential service customers, at least initially, either exclusively or predominantly over their own respective facilities. Because only Brooks has an approved interconnection agreement at this time,¹ the OCC will limit its comments to that company. The OCC anticipates a hearing on Cox's proposed interconnection agreement to be held within thirty (30) days.

Brooks currently has approved tariffs to provide both residential and business local

¹Section 271(c)(1)(A), referred to as "Track A," requires the Bell operating company to have "one or more binding agreements that have been approved." Brooks has an approved agreement. Cox's

exchange services in Oklahoma.² Brooks' written comments filed in the OCC's proceeding to investigate SWBT's compliance with the Act confirm this.³ This is consistent with the testimony of Brooks' witness in a hearing in July 1996, in Cause Nos. PUD 960000102 and 960000103, where the Brooks companies were seeking certificates of convenience and necessity to provide local exchange service in Oklahoma. In that hearing, the Brooks witness, Mr. Ed Cadieux, testified that "As we get into offering switch services, we are going to offer service to residential customers.... [W]e certainly are going to offer residential service throughout the originating territories that I have described in my testimony." The OCC staff then inquired further to make sure of Brooks' commitment to serve both business and residential customers in Oklahoma:

Q. Okay. So basically you are confirming that...you also intend to offer [service] to residential and certainly would not limit your services or preclude residential customers from partaking of any services you might make available to business customers, for example?

A. That's correct. I mean there are certain services by the nature of either their economic or technical, you know, characteristics that are not going to be -- that are going to be attract[ive] to business customers and not residential.

Q. Sure.

A. But with that qualification, the answer is yes.

Q. In other words, non -- you would offer your services in a non-discriminatory fashion?

²Brooks Fiber Communications of Tulsa, Inc., and Brooks Fiber Communications of Oklahoma, Inc., OCC Tariff No. 2, §§ 2.1.1., 4.1. A copy of the tariff is attached as Appendix "H".

³Brooks' initial comments in Cause No. PUD 970000064, filed March 11, 1997, state: "Brooks is currently providing switched local exchange service to 13 business customers in Oklahoma City...and to 7 business customers in Tulsa...and to 3 residential customers in Tulsa and 1 residential customer in Oklahoma City (all residential through resale of SWBT's local exchange service, and all currently on a test-basis)". A copy of these comments is attached as Appendix "I."

A. That's correct.⁴

The OCC has no reason to believe that there are any impediments to Brooks being able to operate consistent with its internal business plans. In fact, as shown above, Brooks is currently providing local service to business customers predominantly over its own facilities and by resale on a test basis to its employees for their residential service. It is also significant that, until the Cause No. PUD 970000064 proceeding related to the Applicants' request for in-region interLATA relief, neither Brooks nor any other CLEC brought any complaints or concerns to the OCC regarding the availability of any checklist item from SWBT. Comments and testimony were presented in Cause No. PUD 970000064 describing some problems Brooks allegedly experienced, but the OCC determined that the problems were of an implementation nature due to miscommunication by both Brooks and SWBT and were not the result of a failure of SWBT to provide or generally offer particular checklist items. Later comments, by both parties, indicated that the implementation problems have been resolved or are being resolved. The OCC believes that initial start-up problems should be expected. One need only remember the initial problems that occurred in the interLATA market after divestiture.

In summary, the OCC has determined that Brooks satisfies Section 271(c)(1)(A).

SWBT's Statement of Generally Available Terms and Conditions

Because the OCC has found that SWBT, through its approved interconnection agreement with Brooks, has satisfied the requirements of Section 271(c)(1)(A) of the Act, it is not necessary to determine whether SWBT could proceed, alternatively, under Section 271(c)(1)(B) and the

⁴Transcript of proceedings, Cause Nos. PUD 960000102 and 960000103, July 15, 1996, at pages 35-36. A copy of these transcript pages is attached as Appendix "J."

status of SWBT's Statement of Generally Available Terms and Conditions ("SGAT") is not now relevant to that inquiry. SWBT's SGAT, however, is relevant insofar as it "generally offers" items on the competitive checklist, and the OCC therefore provides these comments.

On January 15, 1997, SWBT filed its application for approval of its SGAT with the OCC pursuant to Section 252(f) of the Act. At that time, SWBT also filed a motion requesting that the OCC allow the SGAT to go into effect on an interim basis. The ALJ recommended that SWBT's motion be approved.⁵ The matter was appealed to the OCC *en banc* by several CLECs and was ultimately taken under advisement. While the matter was under advisement, by operation of law (Section 252(f)), the SGAT became effective pending the OCC's full review of it.

At the time these Comments are submitted, the OCC has not completed its review of SWBT's SGAT. Instead, the parties agreed that, due to the time constraints inherent in this process, the parties and the OCC should focus their attention on the OCC's docket to investigate SWBT's compliance with the requirements of Section 271 of the Act.

The OCC has not approved SWBT's SGAT, but will continue its review of it in Cause No. PUD 970000020, consistent with the provisions of Section 252(f)(4). However, even though not approved, since the SGAT is effective, all of its terms and provisions are available to all CLECs in Oklahoma, including the terms that are specifically required to be offered under the competitive checklist.

⁵A copy of the transcript of the ALJ's oral ruling of January 29, 1997, in Cause No. PUD 970000020 is attached as Appendix "K."

SWBT complies with the competitive checklist

It is the position of the OCC that SWBT has satisfied the competitive checklist set forth in Section 271(c)(2)(B) of the Act. The OCC finds that the language of said section requires each checklist item to either be "provided" or "generally offered." The OCC has determined, after its review of SWBT's SGAT and its approved interconnection agreements, that all of the checklist items are offered by SWBT.

It is also significant to note that several companies have entered into negotiated interconnection agreements with SWBT in Oklahoma, including facilities-based companies such as Brooks and Cox. These agreements were reached without arbitration or OCC involvement. The OCC believes it is logical to assume that SWBT has provided these companies, including the facilities-based providers, with the services and unbundled network elements necessary to provide local exchange service consistent with the internal business plans of the competitors. The fact that CLECs may not be utilizing each of the 14 checklist items speaks to each individual company's internal business plans and operations, not to the unavailability of the items from SWBT. Although concerns were raised in this proceeding regarding the implementation of some of the checklist items, as noted above, no party claimed that an element that must be made available under the checklist was not generally offered by SWBT or available from SWBT. Instead, complaints were raised by some companies who have not yet completed an interconnection agreement (e.g., AT&T and MCI), or by companies who have an approved interconnection agreement, but have not yet started business in Oklahoma (e.g., Sprint). Although these companies have not attempted to obtain items under the checklist yet, they raised concerns about SWBT's implementation of the checklist with respect to Brooks. Moreover,

many of the concerns raised were issues that have already been addressed by the OCC through arbitration cases or are matters that should be more appropriately addressed through the arbitration process.

Concerns were raised as to whether the rates contained in SWBT's SGAT or its interconnection agreements are cost-based. Much of this argument results from the fact that "interim" rates for various unbundled elements were established in Cause No. PUD 960000218, the OCC's arbitration docket involving SWBT and AT&T. It is significant to note that AT&T, which has raised concerns about the interim rates, specifically agreed to bifurcate the hearings in Cause No. PUD 960000218, thereby enabling the OCC to establish interim rates in the arbitration case and take up the issue of establishing permanent rates in a later proceeding.

The interim rates approved by the OCC have been included in other interconnection agreements (for example, Sprint has agreed to an interconnection agreement containing the interim rates). In the OCC's view, the fact that the rates are "interim" does not mean they are not cost-based and do not comply with the requirements of Section 252(d). The interim rates established in Cause No. PUD 960000218 were supported by cost studies made available by SWBT to the OCC's staff and AT&T pursuant to the OCC's rules and/or were taken from SWBT's Oklahoma or federal tariffs and/or were taken from contracts with other competitive local companies, which were negotiated at arm's length and approved by the OCC. Most importantly, when it approved the interim rates, the OCC required that such rates be subject to a "true up" once permanent rates are established. Therefore, once permanent rates are established, any company which has paid the interim rates, will then be able to have those rates "trued up" to the final, approved rates.

In summary, the OCC has determined that, consistent with the provisions of Section 271(c)(2)(B), SWBT has satisfied the competitive checklist by either providing or generally offering each of the 14 checklist items.

The public interest would be served by full long distance competition in Oklahoma

The OCC has established and carried out an aggressive policy of opening up all telecommunications markets and services to competition. The OCC believes that full competition in the interLATA long distance market, which will only occur when the FCC approves the Applicants' request for in-region interLATA relief, would be consistent with and further the OCC's strong pro-competition policy.

Arguments have been made to the OCC that it should go slow in recommending in-region interLATA relief for the Applicants; that only by denying or delaying their entry into the interLATA long distance business will they have incentive to negotiate in good faith with potential competitors. The OCC specifically rejects this notion. First, it would unnecessarily delay or deprive Oklahoma telephone consumers of an additional choice with respect to their long distance service. Second, the OCC believes adequate safeguards are in place to assure that SWBT will continue to negotiate in good faith. The OCC expects to be vigilant in guarding against any impediment to full competition by any party, whenever a complaint of substance is brought to it. In particular, the OCC intends to exercise its full authority to enforce the agreements it has approved.

Moreover, arguments have been made that there should be "gas in the pipeline" before the Applicants' request for in-region interLATA relief should be granted, that there has to be a certain quality or quantity of competition as a prerequisite for SWBT's entry into in-region

interLATA long distance. Aside from finding no support for these arguments in the Act, the OCC believes that the best and quickest way to get "gas into the local exchange pipeline" would be for the FCC to approve the Applicants' request for in-region interLATA authority. The OCC believes that once full long distance competition is opened up in Oklahoma, the major competitive providers of local exchange service will take notice and adjust their respective business plans to move Oklahoma closer to the top of their schedules, resulting in faster and broader local exchange competition for Oklahoma consumers.

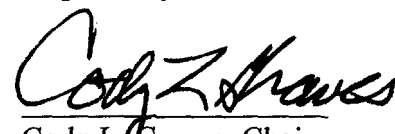
Finally, the OCC received comments and studies showing the positive economic benefits of expanding interLATA competition in Oklahoma. These studies, which were largely unrefuted, indicate the potential for massive job growth and investment in the state as a result of full long distance competition. The public interest in Oklahoma obviously would be served by these economic developments.

Conclusion

In conclusion, the OCC recommends that the FCC approve the Applicants' request for in-region interLATA relief. The OCC's recommendation is based on the OCC's determination that SWBT has complied with the requirements of Section 271(c) and that the public interest in Oklahoma would be served by full long distance competition.

April 30, 1997
Date

Respectfully submitted,


Cody L. Graves, Chairman
Oklahoma Corporation Commission

1. The first part of the document is a list of the names of the people who were present at the meeting. This list is followed by a description of the meeting and the topics that were discussed. The next part of the document is a list of the actions that were taken at the meeting. This list is followed by a description of the results of the meeting and the next steps that need to be taken. The final part of the document is a list of the people who were responsible for the actions that were taken at the meeting. This list is followed by a description of the results of the meeting and the next steps that need to be taken.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of

Application by SBC Communications, Inc.,)
Southwestern Bell Telephone Company,)
and Southwestern Bell Communications) CC Docket No. 97-121
Services, Inc., d/b/a Southwestern Bell Long)
Distance for Provision of In-Region InterLATA)
Services in Oklahoma)

ADDITIONAL COMMENTS OF CODY L. GRAVES,
CHAIRMAN, OKLAHOMA CORPORATION COMMISSION ON THE
APPLICATION OF SBC COMMUNICATIONS, INC.,
SOUTHWESTERN BELL TELEPHONE COMPANY AND
SOUTHWESTERN BELL LONG DISTANCE FOR PROVISION OF
IN-REGION INTERLATA SERVICES IN OKLAHOMA

The Federal Communications Commission (FCC) has been presented with a unique opportunity resulting from the filing of Southwestern Bell (SWBT) to provide in-region interlata services for Oklahoma customers and the Oklahoma Corporation Commission's (OCC) decision to support SWBT's application. This opportunity is unique only in the sense that the FCC has never before had the occasion to specifically interpret the application of §271 of the Telecommunications Act of 1996. I suspect that within 24 months we will all wonder what the fuss was about. It is never easy breaking new ground. There certainly is no lack of detractors.

The primary issue before the FCC is what is the appropriate standard of review. Does §271 require a certain level of competition before it is satisfied? Does §271 require a certain

quality of competition before it is satisfied? Or does §271 require only the ability to compete before it is satisfied?


The OCC would suggest that the appropriate standard should be: Are competitive local exchange companies (CLECs) given the opportunity to compete? Whether CLECs **can** compete in local markets is an entirely different question than **are** CLECs competing. In Oklahoma, we have determined that CLECs have the ability to compete and in fact, are moving toward full blown competition at a pace of their own choosing.

Many CLECs have argued that they cannot compete because of the actions of SWBT. Several parties referred specifically to the experiences of Brooks Fiber. It is, however, interesting to note that many of these same parties have not shared similar experiences, primarily because of their business decisions to focus their competitive efforts in other jurisdictions. Brooks Fiber indicated in their comments to the OCC that the "problems" they have had with SWBT were not of a sufficient nature to bring them to the OCC's attention and seek the OCC's help in resolving them. In fact, Brooks Fiber indicated that the collocations issues, as an example, were working themselves out as both Brooks Fiber and SWBT became more familiar with each other's needs.

AT&T indicated that SWBT had failed to satisfactorily provide them with interim number portability and Operational Service Systems (OSS). The fact is SWBT is providing the interim number portability support that the OCC ordered in the SWBT/AT&T Arbitration Decision. Additionally SWBT is providing OSS at the

same level they provide it internally. So the question becomes does the incumbent satisfy §271 by providing the checklist items equally to everyone (including itself) or must the incumbent provide specifically what the CLEC requests even if it is materially different from current services? In the OCC's opinion the incumbent must provide to others what it provides to itself. It may not be exactly what the CLEC wants, but it does not prevent competition from occurring should the CLEC choose to aggressively enter markets.

We are fully aware that larger corporate strategies have temporarily focused the spotlight on Oklahoma. There are no doubt advantages to some and disadvantages to others that will occur should the FCC approve SWBT's application. However, there is nothing that the FCC can do with this filing that will add to or detract from Oklahoma's efforts to open local telecommunication markets. Unlike some states that may have dealt away their trump card of rate base/rate of return regulation, the OCC has to date retained full regulatory authority over our incumbent local exchange companies (ILECs). We have in the past and will continue in the future to use all of our authority to open local markets to competition.



CODY L. GRAVES, CHAIRMAN
OKLAHOMA CORPORATION COMMISSION

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Application of Ernest G. Johnson.)	
Director of the Public Utility)	
Division. Oklahoma Corporation)	Cause No. PUD 9700000064
Commission to Explore the)	
Requirements of Section 271 of)	
The Telecommunications Act of 1996.)	

FILED
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COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

DISSENTING OPINION OF COMMISSIONER BOB ANTHONY

Before the official start of the Oklahoma Land Run of April 22, 1889, anxious "Sooners" seeking new territory jumped the gun despite provisions of federal law. Now, in a subsequent chaotic setting, the Oklahoma Corporation Commission (OCC) has witnessed Southwestern Bell Telephone Company (SWBT) trying to jump the gun on expanding into the long distance market despite the provisions of federal law. The Sooners got away with it in 1889, but this time the Federal Communications Commission (FCC) gets to decide what level of law enforcement will apply.

Maybe as it consults with us, the FCC should know more of our frontier setting. First of all, the sound of the cannon blast at noon that started the Oklahoma Land Run cannot compare to

the noise of a recent advertising campaign waged by SWBT about the merits of this case while it has been pending before our agency. Adding to the chaos, a companion legislative matter supported by SWBT to deregulate local service has been accompanied by additional advertising as well as telephone companies hiring even more lobbyists. (SWBT now reports more registered lobbyists than any other entity doing business in Oklahoma.)

Furthermore, I suggest the FCC would have found it easier to see through the dust cloud produced by the horses and wagons at the Oklahoma Land Run than to see any substantive facts and credible evidence supporting the majority decision in this case.

Respectfully, I support the Report and Recommendations of the Oklahoma Corporation Commission Administrative Law Judge, the position of the Commission's own Public Utility Staff, the arguments of the Oklahoma Attorney General, and the testimony of the various potential Competitive Local Exchange Carriers that SWBT is not providing access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telephone exchange service to residential and business subscribers consistent with Section 271(c)(1)(A) of the Telecommunications Act of 1996 (The Act). I too agree with those parties that Track B does not apply.

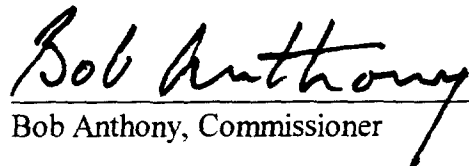
In my opinion, the majority consults with the FCC by saying SWBT should be allowed into the interLATA market even though SWBT has not really met the legal requirements of either Track A or the fourteen point competitive checklist. The FCC must note that four of the checklist items were referenced in the Report and Recommendations of the Administrative Law Judge as being deficient and serving as barriers to successful competition in the local market. The majority

confuses SWBT's ability to comply with actual compliance.

In addition, I believe the FCC will have great concerns about the procedural and evidentiary quality of our state commission proceeding in this matter. The Application filed on February 6, 1997, mentioned a "docket" and stated, "The FCC and DOJ recommended that a full evidentiary hearing be conducted by the various state commissions and that, thereafter, the record in the respective cause be submitted to them for their review." Sadly, the FCC will not find where the OCC conducted a full evidentiary hearing. SWBT submitted comments to the record but did not give testimony or make a witness available for cross-examination. Also, the hearing before the commissioners en banc did not follow our customary procedures regarding appeal hearings or our rules about items allowed into the record. For the majority to declare this matter to be legislative instead of judicial does not justify failing to provide a proper evidentiary record to the FCC.

Some would suggest that competition in the long distance interLATA market in Oklahoma does not exist because SWBT is not currently allowed to participate in this market. To the contrary, vigorous competition already exists in providing long-distance interLATA service. The question before this Commission in this case is whether SWBT has complied with the requirements of The Act regarding its authority to become another competitor in the long distance market. I do not believe the evidence, comments, and legal arguments presented in this case demonstrate that SWBT has met the criteria of The Act. Therefore, I respectfully recommend that the FCC not allow SWBT to provide long distance service in the interLATA market in Oklahoma at this time.

Although SWBT's current application to the FCC is premature, I strongly believe SWBT should be allowed to compete in the interLATA market in Oklahoma as soon as feasible. However, to allow such an opportunity for SWBT right now would indicate telephone customers in Oklahoma are currently being provided real choices regarding selection of local service providers. Unfortunately, it appears SWBT at this time has only trivial competition from facilities-based providers and has not adequately complied with the technical and pricing requirements for interconnection and unbundled network elements set forth in The Act. I hope SWBT will move quickly to meet the competitive standards of The Act required for SWBT to participate in the interLATA telecommunications market in Oklahoma. Compliance by SWBT will allow fairness to competitors in the local exchange market and greater choice to telephone customers.


Bob Anthony, Commissioner

April 30, 1997

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF ERNEST G. JOHNSON,)
DIRECTOR OF THE PUBLIC UTILITY)
DIVISION, OKLAHOMA CORPORATION)
COMMISSION TO EXPLORE THE)
REQUIREMENTS OF SECTION 271 OF)
THE TELECOMMUNICATIONS ACT OF 1996.)

Cause No. PUD 970

000064

FILED
FEB 06 1997

APPLICATION

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CORPORATION COMMISSION
OF OKLAHOMA

COMES NOW, Ernest G. Johnson, Director of the Public Utility Division, Oklahoma Corporation Commission and respectfully requests that the Oklahoma Corporation Commission ("Commission") initiate a proceeding to determine what information the Commission will need in order to consult in a meaningful way with the Federal Communications Commission ("FCC"), as required by 47 U.S.C. Section 271(d)(2)(B), if, and when, Southwestern Bell Telephone Company ("SWBT") requests FCC authority to provide interLATA authority.

PARTIES:

APPLICANT:

The Applicant is Ernest G. Johnson, Director of the Public Utility Division, Oklahoma Corporation Commission, located at 500 Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

RESPONDENT:

The Respondent is Southwestern Bell Telephone Company, a local exchange company certified to provide telecommunications service in Oklahoma, located at 800 North Harvey, Oklahoma City, Oklahoma 73102.

ALLEGATIONS OF FACT:

On February 8, 1996, the President of the United States signed into law the Telecommunications Act of 1996 ("Act"). The Act,

among other things, sets forth procedures that Bell Operating Companies must follow in order to enter the interLATA toll market. In Oklahoma, SWBT is the only Bell Operating Company providing local exchange telephone service. Pursuant to 47 U.S.C. Section 271 (d), once SWBT has complied with the requirements of 47 U.S.C. Section 271 (c)(2), it may request interLATA authority from the FCC. As a part of the FCC's determination regarding the request, the FCC must consult with the appropriate state commission prior to approving or denying SWBT's application. The FCC has ninety (90) days from the date an application is filed to issue a written decision on the application.

In the Spring of 1996, the FCC and the Department of Justice ("DOJ") encouraged the state commission in each respective state to open a docket prior to the Bell Operating Company making application with the FCC. The stated rationale for requesting such action was the FCC's and DOJ's concern that the short time frame allowed under the Act would be insufficient to conduct a complete review of all of the relevant information. The FCC and DOJ recommended that a full evidentiary hearing be conducted by the various state commissions and that, thereafter, the record in the respective cause be submitted to them for their review.

Further, the National Association of Regulatory Utility Commissioners ("NARUC") requested that each Bell Operating Company notify its respective state commission(s) ninety (90) days prior to filing a request for interLATA authority with the FCC.

It appears, from recent actions taken by SWBT, that SWBT is preparing to file an application with the FCC seeking interLATA